

REMARKS

Reconsideration and removal of the grounds for rejection are respectfully requested.

Claims 19-21, 23-36 were in the application, claim 19 has been amended, and claims 29-36 were previously withdrawn.

Claim 19 was amended to give antecedent basis to the term "the sheet" in line 12. No new matter was involved in this amendment which was only made for clarity.

Claims 19-28 were rejected under 35 USC 103(a) as being obvious over Rasmussen, U.S. Patent no 6,428,127 in view of Pochet, U.S. Patent no. 6,231,142.

To establish a *prima facie* case of obviousness based on a combination of references, there should be some teaching, suggestion or motivation in the prior art to make the specific combination that was made by the applicant. In re Raynes, 7 F.3d 1037, 1039, 28 U.S.P.Q.2D (BNA) 1630, 1631 (Fed. Cir. 1993); In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2D (BNA) 1443, 1445 (Fed. Cir. 1992). However, the search for a teaching or suggestion should not be rigid, and a more flexible approach to a determination of obviousness should be used so as to avoid a conflict with common sense. KSR International Co. v. Teleflex Inc. et al, 2007 U.S. Lexis 4745 U.S. Supreme Court, April 30, 2007. In this decision, however, the Supreme Court reaffirmed that obviousness can not be established by a hindsight combination to produce the claimed invention. In re Gorman, 933 F.2d 982, 986, 18 U.S.P.Q.2D (BNA) 1885, 1888 (Fed. Cir. 1991). It is the prior art itself, and not the applicant's achievement, that must establish the obviousness of the combination.

In the rejection, the examiner alleged that the combination of a fastening web 12 to the profile of Rasmussen is sufficient to arrive at the applicants invention, and argues

that the combination is not a hindsight reconstruction. However, without such hindsight, one skilled in the art would not be led to the applicants invention.

Rasmussen discloses a profile that provides a pair of sealing channels, and nowhere in Rasmussen is there any teaching or suggestion for modifying the profile as the examiner proposes. The Rasmussen profile has a simple design, and before one would make the profile more complex, and therefore more expensive to produce, there must be a clear indication that the modification is desirable.

Note that the Profile of Pochet has many more features, that is, bends and formed walls, beyond the fastening web 12; there are a number of channels defined, and a plurality of bends forming multiple structures with different orientations, and so many variations in structure, it is difficult to see how one would pick and chose among them to select the fastening web alone, to combine with Rasmussen to arrive at the applicants' invention

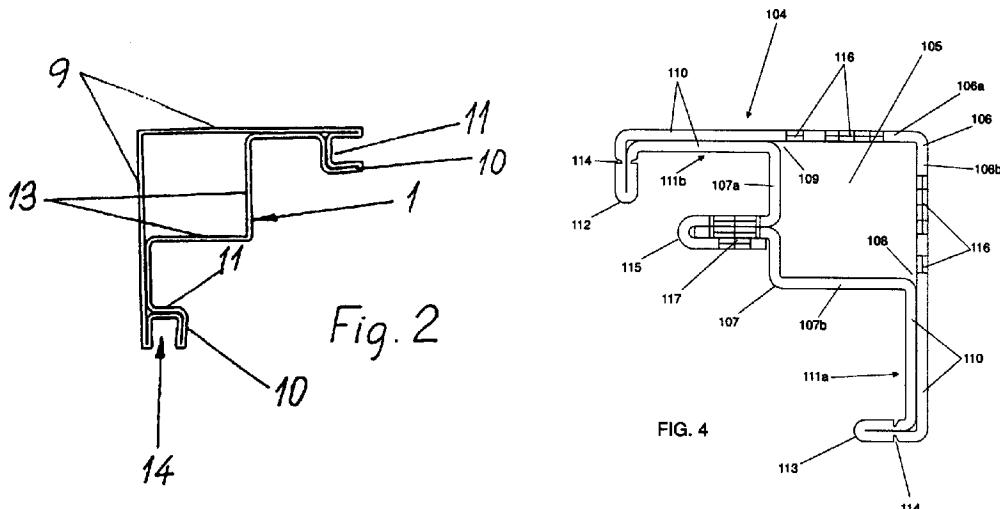
Note that the Rasmussen patent defines a particular structure, that is, the formed grooves for receiving seals which are not incorporated in that applicants invention, so even with the combination, the applicants invention is not achieved.

Pochet, as discussed above, presents multiple structures with multiple orientations and angles, and also fails to include the sealing grooves of Rasmussen. It is difficult to see how adding the fastening web to Rasmussen would lead one to discard the sealing grooves that are the essential feature of Rasmussen; yet, the applicants invention provides for adequate sealing, without the sealing grooves, and in a structure

that is much simpler than the various profiles of Pochet which would be difficult and expensive to produce.

One skilled in the art, taking these references as a whole would not be led to the applicants invention, but to something entirely different. A fair reading, without the application of hindsight, does not lead one skilled in the art to the present invention.

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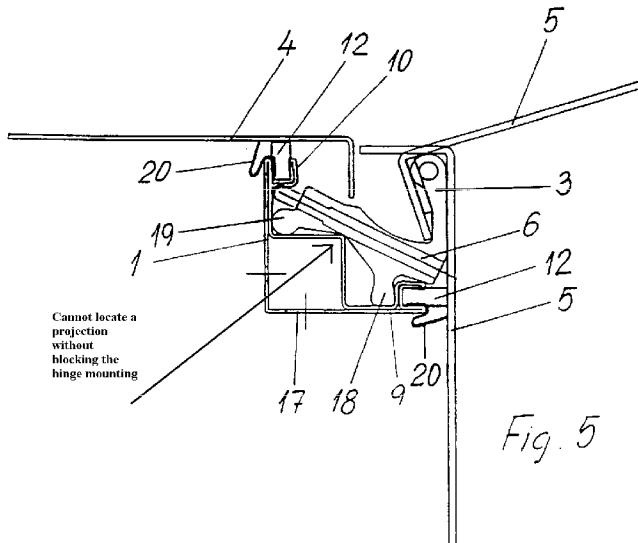


Note, in particular, that one skilled in the art would actually be led away from combining a fastening web with Rasmussen, as addition of the projection, as the examiner proposes, would render the Rasmussen profile inoperative for its intended purpose.

Note that Rasmussen requires a space for receiving a hinge between the sealing grooves; no projection from the vertex could extend outwardly, as then, the hinge for which this profile was designed could not be mounted. This is clearly illustrated

in Fig. 5. Consequently, the modification proposed by the examiner would render the profile inoperative for its' intended function, a result that clearly proves that one skilled in the art would not contemplate incorporating such a projection from Pochet in Rasmussen.

In view of the above, one skilled in the art would not find the present invention to be obvious, nor find any teaching or suggestion to lead him to provide the specific combination of structural features to arrive at the profile the applicant has created. Rather, one skilled in the art would be led away from the applicants' invention, and it is believed that claims 19-21, and 23-28 are patentable over the cited art.



Based on the above, favorable consideration and allowance of the application is respectfully requested. However, should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

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